

THE EXPENSIVENESS OF BROWN'

UP TO THE PRESENT IT APPEARS TO HIT HIS DENVER BANK

OUT IN TOKIO, ONE SILVERBERG, IT IS ALLEGED, GOT \$5,000 BY TELEGRAPHING FOR IT IN BROWN'S NAME, AND BROWN'S BANK DOESN'T LIKE IT - A DRAFT WITH AN IF.

James J. Brown of Denver had an account in the First National Bank of Denver while he was travelling in Japan in 1902. John F. Campion, a friend of his in Denver, got a telegram signed with Brown's name asking him to telegraph \$5,000 at once. When nothing was done about it another telegram was received a few days later saying, "Nothing arrived. Investigate."

Campion then took the telegram to the Denver bank, which wired Brown Bros. & Co.

"Pay \$5,000 to Yokohama Specie Bank, Tokio, by telegraph for credit of J. J. Brown upon satisfactory identification, and attach much importance to mental condition of payee. Importance of this cannot be overestimated."

In a letter following the telegram the Denver bank said:

"We do not wish to impose any hardship upon your Tokio correspondent in making this payment, but Mr. Brown has been for several years in an unfortunate state of health and mental condition and we trust your correspondent will use best judgment in making the payment."

A representative of Brown Bros. & Co. went to the New York office of the Yokohama Bank and asked that the payment be made. The latter refused to order the payment of a draft with conditions attached. Then Brown Bros. & Co. wired the Denver bank:

"Will pay on identification, but take no responsibility concerning mental condition."

The Denver bank replied:

"We do not require you to accept responsibility, but if party is plainly unfit to transact business do not pay. Merely ask your correspondent to use his best judgment and act accordingly."

The Yokohama bank still refused to pay with any condition attached, so the Denver bank wired to make payment upon satisfactory identification, and the money was then paid. Before the branch in Tokio had been directed to pay over 10,000 yen to J. J. Brown a man had called there for the money several times as "Mr. Brown" and said he was staying at the Hotel Metropole. When the Tokio branch got word to pay it called the Denver bank and found that Mr. Brown was staying there, having gone to Yokohama for the day. The next day "Mr. Brown" appeared for the money and got it. The bank representative said that the money was paid over without question because the man said he was Mr. Brown and "looked like a tourist."

It then developed that Mr. Brown had not been the man who had come to the bank, and the Denver bank called upon Brown Bros. & Co. to make good. The latter disclaimed responsibility and the Denver bank sued. Mr. Brown testified that he recognized the telegram filed in Tokio as signed by one Harry Silverberg, whom he had met in Japan and accompanied on a day's excursion. Silverberg had been away from him on several occasions, he said.

A referee who heard the suit found against Brown Bros. & Co. on the ground that the Denver bank's directions as to satisfactory identification had not been carried out. The Appellate Division reversed the judgment and ordered a new trial, but the date of identifying the payee was on the bank's books as having been over the money, and not on Brown Bros. & Co. in New York, who had no dealings with the payee. The Denver bank is held to have been at fault for not giving identification characteristics which would have prevented paying the money to an impostor.

The court also points to the testimony of Takeo Kikuchi, president of the Tokio bar, member of the House of Peers and president of the Central University law school, who said that under the laws of Japan the Yokohama bank, having acted in good faith in making the payments under the circumstances, was relieved of responsibility.

SAM UNTERMAYER'S SIDE.

SAYS CHARLES A. PEABODY EXPRESSED MORE THAN A DOUBT OF HIS VIRTUE.

Supreme Court Justice Gerard granted yesterday to Samuel Untermeyer an order to take the testimony of witnesses in Louisville, Ky., in a suit against Charles A. Peabody, president of the Mutual Life Insurance Company, for \$100,000 damages for defamation of character. The witnesses are James E. Williams, assistant manager and cashier of the Louisville agency of the Mutual; Frank L. Noad, Owen W. Thomas and Henry W. Flexner, also employees of the Mutual life.

Mr. Untermeyer's suit arises from a statement he made last April following an investigation by the Insurance Department of the money spent by the Mutual Life in the election of trustees in 1906.

Mr. Untermeyer says in his complaint that he made a comment on this report and that when this comment was shown to Mr. Peabody the latter said: "It only shows that he [Untermeyer] is indulging once more in his propensity for butting in' and attaching his name to anything involving a little passing notoriety. His remarks are as truthful as most of his utterances that is to say, there is not one word of truth in them."

The Peabody side also alleges that Mr. Peabody gave some information to Untermeyer. He made two propositions to me either one of which would have involved betraying the interests of policyholders and directly contributing to his inordinate vanity and greed. But I waste words expressing my opinion of the gentleman in question. My opinion is that of the business community generally."

Mr. Peabody says in his answer that he said nothing about Mr. Untermeyer with malicious intent, and insists that no resources of the company were spent in the election that no money was spent improperly and the advances to agents were no larger than for any other period. He says that the election was free from control of the agency force and the cost of the election was not over \$10,000.

TEXAS TO GET MECKER.

WHO HAS BEEN FIGHTING EXTRADITION FROM NEW YORK FOR MORE THAN A YEAR.

Charles M. Meeker, who has been fighting extradition to Texas for more than a year, must go there now to stand trial for conspiracy to defraud George N. Mattingly of Texline, Tex., out of \$2,000 as the result of a decision by the Appellate Division of the Supreme Court yesterday dismissing habeas corpus proceedings he brought against the Texas Commissioner.

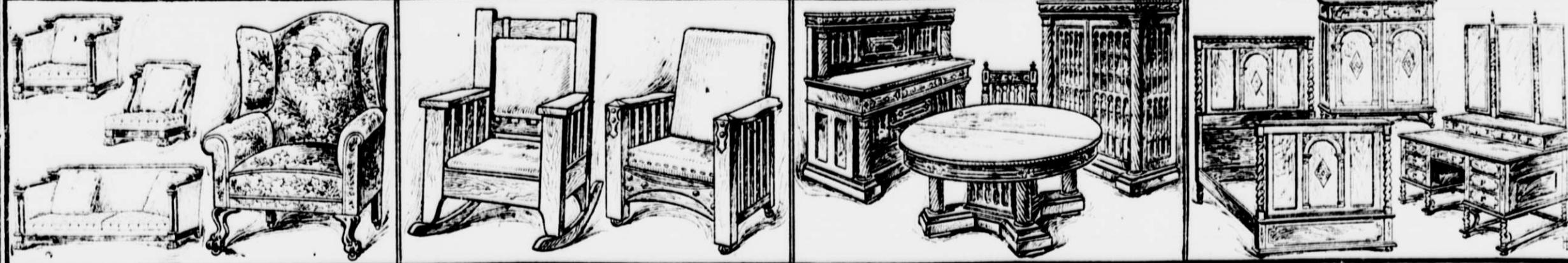
Meeker was arrested here last spring charged with giving drafts on a bogus London bank and as he had already been indicted in Texas the authorities decided to extradite him for trial. We discussed the case with Mr. H. C. Barnes, who offered to represent him. Barnes ordered him sent to Texas to stand trial. The habeas corpus proceedings declared that he never was in Texline and for that reason couldn't have committed a crime there. The Appellate Division finds that there is reason to believe he was in Texline.

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sale \$80.00

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sale \$7.75

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Regularly \$14.49

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